

# FINAL BILL REPORT

## ESHB 1524

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Synopsis as Enacted

**Brief Description:** Providing for juvenile mental health diversion and disposition strategies.

**Sponsors:** House Committee on Early Learning & Human Services (originally sponsored by Representatives Roberts, Clibborn, Goodman, Maxwell, Kagi, Orwall, Appleton, Ryu, Ormsby, Jinkins, Fey and Bergquist).

**House Committee on Early Learning & Human Services**  
**Senate Committee on Human Services & Corrections**

### **Background:**

#### Law Enforcement Detention Authority.

In 2007 the Legislature passed Substitute Senate Bill 5533 which authorized law enforcement officers, under certain circumstances, to take a person to a short-term detention facility for assessment and evaluation, instead of taking the person to jail. An officer may use this authority when he or she has reasonable cause to believe that the person has committed a nonfelony offense that is not considered "serious" and the person has a mental disorder. The officer may also refer the individual to a mental health professional for evaluation under the mental health commitment statutes, or release him or her upon agreement to voluntary participation in outpatient treatment.

Nonfelony offenses that are considered "serious" are domestic violence offenses and harassment offenses.

#### Evaluation and Treatment Facility.

An evaluation and treatment facility provides emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder.

#### Diversions.

If a juvenile is alleged to have committed a misdemeanor or gross misdemeanor, and it is his or her first violation, the prosecutor must "divert" the case rather than file a complaint. After the first offense, the prosecutor has discretion whether to allow the juvenile to enter into a

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

diversion or file the case. In most circumstances, a juvenile may have no more than two diversions.

A case is diverted when the juvenile enters into a "diversion agreement", which may include a requirement that the juvenile attend counseling or educational or informational sessions at a community agency. The educational or informational sessions may include issues of victim awareness, self-worth, and life skills, among other subjects. A community agency may be a community-based nonprofit organization.

A diversion agreement may be between a juvenile and probation counselor, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity except a law enforcement official.

When a juvenile enters into a diversion agreement, the only information provided to the juvenile court for dispositional purposes is:

- the fact that a charge or charges were made;
- the fact that a diversion agreement was entered into;
- the juvenile's obligations under such agreement;
- whether the alleged offender performed his or her obligations under such agreement;
- and
- the facts of the alleged offense.

#### Deferred Disposition.

A deferred disposition in juvenile court is akin to a deferred prosecution in adult court. The juvenile offender is found guilty at the time that the court agrees to allow a deferred disposition. A deferred disposition allows a juvenile to complete certain conditions set out by the court including supervision and, any restitution payment, in exchange for having the charges dismissed.

A juvenile is eligible for a deferred disposition unless he or she:

- is charged with a sex or violent offense;
- has a criminal history which includes any felony; or
- has two or more prior adjudications.

If a court grants a deferred disposition, the juvenile is required to:

- stipulate to the admissibility of the facts contained in the written police report;
- acknowledge that the report will be used to support a finding of guilt and to impose a disposition (i.e., sentencing) if the juvenile fails to comply with terms of supervision;
- and
- waive the right to a speedy disposition and to call and confront witnesses.

After the court enters a finding or plea of guilty, the court defers entry of an order of disposition. The juvenile offender is placed on community supervision, and the court may impose any conditions that it deems appropriate. Payment of restitution must be a condition of supervision.

If the court finds that the juvenile offender has successfully complied with the conditions of his or her supervision, including payment of restitution, the conviction is vacated and the court dismisses the case with prejudice. If, at the conclusion of the deferral period, restitution has not been paid in full, the court may vacate the conviction if the court is satisfied the offender made a good faith effort to pay. In this instance, the court must enter an order establishing the amount of restitution still owing and the terms and conditions of payment, which may include a payment plan extending up to 10 years.

If a juvenile has a conviction for Animal Cruelty in the first degree, the court may not vacate the conviction.

### **Summary:**

#### Authority of Law Enforcement.

When a police officer has reasonable cause to believe that a juvenile has committed a nonfelony offense that is not considered to be serious, and the officer has reason to believe that the juvenile suffers from a mental disorder, the officer is authorized to take the individual to an evaluation and treatment facility or an alternative location that the prosecutor, law enforcement, and a mental health provider have agreed to in advance. The officer may exercise this authority instead of taking the juvenile to a detention facility. Law enforcement may continue any existing practice of taking such juveniles to an alternative location that does not require prior agreement with local prosecutors.

#### Diversions.

A juvenile may have up to three diversions before the prosecutor must file an information alleging a criminal offense. If an assessment identifies that a juvenile has mental health needs and he or she has been granted a diversion, the juvenile may receive up to 30 hours of counseling, and a term of the diversion agreement may include services that have been demonstrated to improve behavioral health and to reduce recidivism.

The definition of "community agency" is expanded to include a physician, counselor, school, or treatment provider.

#### Deferred Disposition.

If the court grants a deferred disposition to a juvenile, the court may require the juvenile to undergo a mental health or substance abuse evaluation, or both. If the assessment identifies a need for treatment, the conditions of supervision may include treatment that has been demonstrated to improve behavioral health and reduce recidivism.

### **Votes on Final Passage:**

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| House  | 75 | 23 |
| Senate | 47 | 1  |

**Effective:** July 28, 2013